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Attorneys for Defendants
C. R. Bard, Inc. and
Bard Peripheral Vascular, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products
Liability Litigation

No. 2:15-MD-02641-DGC

**DEFENDANTS C. R. BARD, INC. AND
BARD PERIPHERAL VASCULAR,
INC.'S BRIEF REGARDING THE
MOTION FILED BY LAW OFFICES
OF BEN C. MARTIN/BAUGHMAN TO
REDUCE AND EXEMPT CLIENT
RECOVERIES FROM COMMON
BENEFIT FEE AND EXPENSE
ASSESSMENT**

(Assigned to the Honorable David G.
Campbell)

The Law Offices of Ben C. Martin and Martin/Baughman have filed a motion asking this Court to modify their obligation to pay an assessment to the common benefit fund established at the outset of this multidistrict litigation proceeding ("MDL"). (Doc.

22144). The Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively “Bard”) do not have a direct stake in this apparent dispute between Mr. Martin’s firms and the Plaintiffs’ Executive Committee in this MDL. However, a couple of issues raised in the motion do in fact impact Bard. Both issues concern the confidentiality of settlements that Bard has reached with filter claimants.

First, Mr. Martin’s various attempts to characterize the value of the settlements he reached with Bard arguably violate the confidentiality terms set forth in the Master Settlement Agreement among the parties. To be sure, Bard vigorously disputes the Martin firms’ description of the value of their settlements, as well as much of the description of their litigation efforts since their cases were remanded to the MDL. Still, their efforts to quantify the alleged values of their settlements (no matter how exaggerated) come perilously close to violating their contractual obligation to maintain the confidentiality of the “amount” of the settlements and all “terms and conditions” associated with the resolution.

Even more bothersome is their suggestion that the Executive Committee voluntarily share with them the settlement values of the MDL cases that were not remanded or transferred to other courts, or alternatively, that they be permitted to conduct discovery regarding those amounts. Not surprisingly, each and every settlement related to this MDL that has been reached by Bard is subject to a confidentiality requirement. Those provisions are vital components of the settlements. Bard could not have effectively settled thousands of cases in the mass tort context if the value of individual settlements was public knowledge. Moreover, allowing discovery regarding other settlements would not only decimate Bard’s interests in confidentiality; it would also unnecessarily complicate the final proceedings of this MDL. As the Eighth Circuit has recognized in a similar situation, “discovery in connection with fee motions is rarely permitted, and ‘a request for attorney’s fees should not result in a second major litigation.’” *See In re Genetically Modified Rice Litig.*, 764 F.3d 864, 871–72 (8th Cir. 2014) (citations omitted).

Based on those concerns, Bard urges the stakeholders in this dispute to be mindful

1 of their confidentiality obligations under the various settlement agreements, and
2 respectfully asks this Court to deny the Martin firms' request to conduct discovery
3 regarding the value of other settlements.

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5 DATED this 2nd day of February 2022.

6 s/ Richard B. North, Jr.
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21 **Attorneys for Defendants C. R. Bard, Inc. and**
22 **Bard Peripheral Vascular, Inc.**
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CERTIFICATE OF SERVICE

I hereby certify that February 2, 2022, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to all attorneys of record.

s/ Richard B. North, Jr.
Richard B. North, Jr.